

Senate File 2264 - Enrolled

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SENATE FILE 2264

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1 2
1 3 AN ACT
1 4 RELATING TO THE DUTIES OF COUNTY RECORDERS AND COUNTY AUDITORS
1 5 CONCERNING INSTRUMENTS AFFECTING REAL ESTATE AND CERTAIN
1 6 OTHER FILINGS RECORDED BY THE COUNTY RECORDER.

1 7
1 8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 9
1 10 Section 1. Section 331.602, subsection 5, Code Supplement
1 11 2005, is amended by striking the subsection.

1 12 Sec. 2. Section 331.603, subsection 3, Code 2005, is
1 13 amended to read as follows:

1 14 3. The recorder may reproduce in miniature on a durable
1 15 medium any instrument to be recorded. When a recorded
1 16 instrument involves a release, or assignment, or other
1 17 ~~subsequent reference to an original document,~~ the separate
1 18 instrument filed acknowledging the release, or assignment, or
1 19 ~~other subsequent reference~~ shall be reproduced. In lieu of
1 20 marginal entries, the recorder shall ~~make notations on both~~
1 21 ~~the index and the record of the original instrument cross-~~
1 22 ~~reference the release, assignment, or other subsequent~~
1 23 ~~reference with the record of the original document.~~ When an
1 24 official record is produced in miniature, a security copy
1 25 shall be reproduced at the same time and kept outside of the
1 26 courthouse.

1 27 Sec. 3. Section 331.606B, subsection 2, unnumbered
1 28 paragraph 1, Code 2005, is amended to read as follows:

1 29 Each document or instrument, other than a plat or survey or
1 30 a drawing related to a plat or survey, that is presented for
1 31 recording ~~and that contains any of~~ shall contain the following
1 32 information ~~shall have that information~~ on the first page
1 33 below the three-inch margin:

1 34 Sec. 4. Section 331.607, subsection 1, Code 2005, is
1 35 amended to read as follows:

2 1 1. ~~A record for military discharges~~ Military personnel
2 2 records as provided in section 331.608.

2 3 Sec. 5. Section 331.608, subsections 3 and 9, Code
2 4 Supplement 2005, are amended to read as follows:

2 5 3. The recorder shall record without charge the
2 6 commissions and warrants of veteran officers and
2 7 noncommissioned officers; ~~orders citing a veteran for bravery~~
2 8 ~~and meritorious action, and;~~ citations and bestowals of medals
2 9 from the state, federal, or foreign governments; ~~and any other~~
2 10 documents needed to perfect a claim.

2 11 9. As used in this section, "veteran" means a veteran as
2 12 defined in section 35.1, who enlisted or was inducted from the
2 13 county, resided at any time in the county, or is buried in the
2 14 county. For purposes of records maintained for claims filed
2 15 under chapter 426A, "veteran" also means a veteran as defined
2 16 in section 426A.11, subsection 4.

2 17 Sec. 6. Section 458A.22, Code 2005, is amended to read as
2 18 follows:

2 19 458A.22 DUTY TO HAVE FORFEITED LEASE RELEASED == AFFIDAVIT
2 20 OF NONCOMPLIANCE == NOTICE TO LANDOWNER == REMEDIES.

2 21 1. When any oil, gas, or metallic mineral lease given on
2 22 land situated in Iowa and recorded, becomes forfeited by
2 23 failure of the lessee to comply with its provisions or the
2 24 Iowa law, the lessee shall, within sixty days after date of
2 25 forfeiture of the lease, have the lease surrendered in
2 26 writing, duly acknowledged, and placed on record in the county
2 27 where the leased land is situated, ~~or the lease may be~~
2 28 ~~released by a marginal release on margin of the record without~~
2 29 ~~cost to the owner of land described in the lease.~~ If the
2 30 lessee fails to execute and record a release of the recorded
2 31 lease within the time provided for, the owner of the land may
2 32 execute ~~and file with the recorder of the counties in which~~
2 33 ~~the forfeited lease has been recorded~~ an affidavit of
2 34 noncompliance in substantially the following form:

2 35 AFFIDAVIT OF NONCOMPLIANCE

3 1 State of Iowa)
3 2 County of) ss.
3 3, being first duly sworn, upon oath deposes and says

3 4 that the deponent is as referred to in an (oil and gas)
3 5 (metallic mineral) mining lease dated the ... day of
3 6 (month), (year), which lease is recorded in Volume ...,
3 7 Page, or as Instrument # of the County Records of
3 8 County, ..., and which lease covers the following
3 9 described lands:

3 10
3 11 And further, deponent says that on the ... day of
3 12 (month), (year), under the terms of said lease, there
3 13 should have been paid to the deponent or deposited to the
3 14 deponent's credit in the Bank of the sum of
3 15 Dollars (\$...), the payment of which was necessary in
3 16 order to keep the above described lease in force and effect.
3 17 Deponent hereby swears the above payment has never been made
3 18 to the deponent or the deponent's representatives, in money or
3 19 otherwise, nor has same been deposited to the deponent's
3 20 credit in the above bank.

3 21 And further, deponent says that there has been no drilling
3 22 or development of any nature or kind whatsoever done on the
3 23 land covered by the lease referred to herein, as called for
3 24 under the terms of said lease.

3 25
3 26
3 27 Subscribed and sworn to before me, a Notary Public for the
3 28 State of Iowa, this day of (month), ... (year)
3 29
3 30 Notary Public

3 31 My commission expires
3 32 AFFIDAVIT OF THE BANKER

3 33 State of)
3 34 County of) ss.

3 35 I,, (Cashier) (President) of the Bank of
4 1, being first duly sworn, upon my oath declare that
4 2 there has not been deposited to the credit of in the
4 3 Bank of, by or any other party, any sum
4 4 of money whatsoever, in payment of rental under the terms of
4 5 the (oil and gas) (metallic mineral) mining lease referred to
4 6 in this affidavit.

4 7 Witness my hand this day of (month), ...
4 8 (year)

4 9
4 10 (Cashier) (President) of Bank
4 11 Subscribed and sworn to before me, a Notary Public for the
4 12 State of Iowa on the day of (month), ... (year)
4 13
4 14 Notary Public

4 15 My commission expires

4 16 2. The owner of the land shall retain the original
4 17 affidavit and shall mail a copy of the affidavit by restricted
4 18 certified mail, as defined in section 618.15, to the lessee.

4 19 ~~If the lessee shall, within thirty days after receipt of the~~
4 20 ~~filing of such affidavit, give gives notice in writing, by~~
4 21 ~~restricted certified mail, to the county recorder of the~~
4 22 ~~county where said owner of the land is located that said the~~
4 23 ~~lease has not been forfeited and that said the lessee still~~
4 24 ~~claims that said the lease is in full force and effect, then~~
4 25 ~~the said affidavit shall not be recorded but the county~~
4 26 ~~recorder shall notify the owner of the land of the action of~~
4 27 ~~the lessee, and the owner of the land shall be entitled to the~~
4 28 ~~remedies provided by this chapter for the cancellation of such~~
4 29 ~~disputed lease.~~

4 30 3. If the lessee shall does not notify the county recorder
4 31 owner of the land as above provided in subsection 2, then the
4 32 county recorder shall record said file the original
4 33 affidavit for recording with the county recorder, and
4 34 thereafter the record of the said lease shall not be notice to
4 35 the public of the existence of said the lease or of any
5 1 interest therein or rights thereunder, and said the record
5 2 shall not be received in evidence in any court of the state on
5 3 behalf of the lessee against the lessor, and said the lease
5 4 shall stand forfeited.

5 5 Sec. 7. Section 558.41, subsection 4, Code 2005, is
5 6 amended to read as follows:

5 7 4. TERMINATION OF LIFE ESTATE. Upon the termination of a
5 8 life estate interest through the death of the holder of a
5 9 life estate, any surviving holder or successor in interest
5 10 shall prepare a change of title or affidavit for tax purposes
5 11 and delivery of the deed or change of title shall deliver such
5 12 instrument to the county recorder of the county in which each
5 13 parcel of real estate is located.

5 14 Sec. 8. Section 558.49, subsection 3, Code 2005, is

5 15 amended to read as follows:

5 16 3. The date and time when the instrument was filed with
5 17 the recorder.

5 18 Sec. 9. Section 558.57, Code 2005, is amended to read as
5 19 follows:

5 20 558.57 ENTRY ON AUDITOR'S TRANSFER BOOKS.

~~5 21 The After the recorder shall not record has accepted for
5 22 recording and indexed any deed, real estate installment
5 23 contract, or other instrument unconditionally conveying real
5 24 estate or altering a real estate contract by assigning the
5 25 buyer's or seller's interest, changing the name of the buyer
5 26 or seller, changing the legal description of the property,
5 27 forfeiting or canceling the contract, or making other
5 28 significant changes, until the auditor shall make the proper
5 29 entries have been made upon the transfer books in the
5 30 auditor's office, and endorsement made upon the deed, real
5 31 estate installment contract, or other instrument properly
5 32 dated and officially signed, in substantially the following
5 33 form:-~~

~~5 34 Entered upon transfer books and for taxation this .. day of
5 35 (month), .. (year). My fee \$.... collected by recorder.~~

6 1
6 2 Auditor:-

6 3 Sec. 10. Section 558.58, subsection 1, Code 2005, is
6 4 amended to read as follows:

~~6 5 1. At the time of filing a deed, real estate installment
6 6 contract, or other instrument mentioned in section 558.57, the
6 7 recorder shall collect from the person filing the deed, real
6 8 estate installment contract, or instrument, and note payment
6 9 of, the recording fee provided by law and the auditor's
6 10 transfer fee, as provided by law, except as provided in
6 11 subsection 2. The recorder shall deliver the deed, real
6 12 estate installment contract, or instrument to the county
6 13 auditor, after endorsing upon the instrument the following:-~~

~~6 14 Filed for record, indexed, and delivered to the county
6 15 auditor this .. day of (month), .. (year), at
6 16 o'clock ..m.-~~

~~6 17 Recorder's and auditor's fee \$.... paid.-~~

6 18
6 19 Recorder:-

6 20 After the recorder has accepted the instrument for
6 21 recording, the instrument shall be indexed and then delivered
6 22 to the auditor to be placed on the auditor's transfer books.

6 23 Sec. 11. Section 558.60, Code 2005, is amended to read as
6 24 follows:

6 25 558.60 TRANSFER AND INDEX BOOKS.

~~6 26 The county auditor shall keep in the county auditor's
6 27 office books for the transfer of real estate, which shall
6 28 consist of a transfer book, index book, and plat book. As
6 29 used in this context, "book" means the method of data storage
6 30 and retrieval utilized by the county auditor.~~

~~6 31 The auditor shall index the real estate transfers by block
6 32 and lot or by township, range, section, section quarter, and
6 33 subdivision, as occasion may require. The transfer books
6 34 shall show all of the following:-~~

~~6 35 1. Each grantor.~~

7 1 2. Each grantee.

7 2 3. The date of the instrument.

7 3 4. The nature of the instrument.

~~7 4 5. The document reference number where the record of the
7 5 instrument may be found.~~

7 6 6. The description of the real estate conveyed.

7 7 Sec. 12. Section 558.63, Code 2005, is amended to read as
7 8 follows:

7 9 558.63 BOOK OF PLATS == HOW KEPT.

~~7 10 The auditor shall keep the book of plats so as to show
7 11 showing the number of lot and block, or township and range,
7 12 divided into sections and subdivisions as occasion may
7 13 require, and shall designate thereon each piece of real
7 14 estate, and mark in pencil the name of the owner thereon, in a
7 15 legible manner; which. The plats shall be lettered or
7 16 numbered so that they may be conveniently referred to by the
7 17 memoranda of in the transfer book, and shall be drawn on the
7 18 scale of not less than four inches to the mile.~~

7 19 Sec. 13. Section 561.4, Code 2005, is amended to read as
7 20 follows:

7 21 561.4 SELECTING == PLATTING.

~~7 22 The owner, husband or wife, or a single person, may select
7 23 the homestead and cause it to be platted, but a failure to do
7 24 so shall not render the same liable when it otherwise would
7 25 not be, and a selection by the owner shall control. When~~

7 26 selected, it shall be designated by a legal description, or if
7 27 impossible it shall be marked off by permanent, visible
7 28 monuments, and the description shall give the direction and
7 29 distance of the starting point from some corner of the
7 30 dwelling, which description, with the plat, shall be filed and
7 31 recorded by the recorder of the proper county ~~in the homestead~~
~~7 32 book, which shall be, as nearly as may be, in the form of the~~
~~7 33 record books for deeds, with an index kept in the same manner~~
7 34 provided in sections 558.49 and 558.52.

7 35 Sec. 14. Section 614.21, unnumbered paragraph 1, Code
8 1 2005, is amended to read as follows:

8 2 No action shall be maintained to foreclose or enforce any
8 3 real estate mortgage, bond for deed, trust deed, or contract
8 4 for the sale or conveyance of real estate, after twenty years
8 5 from the date thereof, as shown by the record of such
8 6 instrument, unless the record of such instrument shows that
8 7 less than ten years have elapsed since the date of maturity of
8 8 the indebtedness or part thereof, secured thereby, or since
8 9 the right of action has accrued thereon, or unless the record
8 10 shows an extension of the maturity of the instrument or of the
8 11 debt or a part thereof, and that ten years from the expiration
8 12 of the time of such extension have not yet expired. The date
8 13 of maturity, when different than as appears by the record of
8 14 the instrument, and the date of maturity of any extension of
8 15 said indebtedness or part thereof, may be shown at any time
8 16 prior to the expiration of the above periods of limitation by
8 17 the holder of the debt or the owner or assignee of the
8 18 instrument filing an extension agreement, duly acknowledged as
8 19 the original instrument was required to be acknowledged, in
8 20 the office of the recorder where the instrument is recorded,
~~8 21 or by noting on the margin of the record of such instrument in~~
~~8 22 the recorder's office an extension of the maturity of the~~
~~8 23 instrument or of the debt secured, or any part thereof; each~~
~~8 24 notation to be witnessed by the recorder and entered upon the~~
~~8 25 index of mortgages in the name of the mortgagor and mortgagee.~~

8 26 Sec. 15. Section 614.35, Code 2005, is amended to read as
8 27 follows:

8 28 614.35 RECORDING INTEREST.

8 29 To be effective and to be entitled to record, the notice
8 30 above referred to shall contain an accurate and full
8 31 description of all land affected by such notice which
8 32 description shall be set forth in particular terms and not by
8 33 general inclusions; but if ~~said the~~ claim is founded upon a
8 34 recorded instrument, then the description in such notice may
8 35 be the same as that contained in such recorded instrument.
9 1 Such notice shall be filed for record in the office of the
9 2 county recorder of the county or counties where the land
9 3 described ~~therein in the notice~~ is situated. The recorder of
9 4 each county shall accept all such notices presented to the
9 5 recorder which describe land located in the county in which
9 6 the recorder serves and shall enter and record full copies
9 7 ~~thereof in the same way that deeds and other instruments are~~
~~9 8 recorded of the notices in the manner provided in sections~~
~~9 9 558.49 and 558.52, and each recorder shall be entitled to~~
9 10 charge the same fees for the recording ~~thereof of the notices~~
9 11 as are charged for recording deeds. In indexing such notices
9 12 in the recorder's office each recorder shall enter such
9 13 notices under the grantee indexes of deeds in the names of the
9 14 claimants appearing in such notices. ~~Such notices shall also~~
~~9 15 be indexed under the description of the real estate involved~~
~~9 16 in a book set apart for that purpose to be known as the~~
~~9 17 "claimant's book."~~

9 18 Sec. 16. Sections 558.61, 558.62, and 558.64, Code 2005,
9 19 are repealed.

9 20
9 21
9 22
9 23 _____
9 24 JEFFREY M. LAMBERTI
9 25 President of the Senate

9 26
9 27 _____
9 28 CHRISTOPHER C. RANTS
9 29 Speaker of the House

9 30 I hereby certify that this bill originated in the Senate and
9 31 is known as Senate File 2264, Eighty-first General Assembly.
9 32
9 33
9 34
9 35

10 1 _____
MICHAEL E. MARSHALL

Secretary of the Senate

10 2
10 3 Approved _____, 2006
10 4
10 5
10 6
10 7 THOMAS J. VILSACK
10 8 Governor